

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

JUSTIN M. HICKOX,

Petitioner,

v.

TAMMY FERGUSON and
PA ATTORNEY GENERAL,

Respondents.

No. 4:18-CV-00227

(Judge Brann)

(Magistrate Judge Mehalchick)

ORDER

DECEMBER 20, 2019

Justin M. Hickox, a Pennsylvania state prisoner, filed this 28 U.S.C. § 2254 petition seeking to vacate his convictions and sentence.¹ In his petition, Hickox asserts that his plea counsel was ineffective for: (1) failing to develop an alibi defense; (2) failing to adequately prepare for trial; and (3) coercing Hickox into entering a guilty plea.²

In October 2019, Magistrate Judge Karoline Mehalchick issued a Report and Recommendation recommending that this Court deny the petition.³ Magistrate Judge Mehalchick recommends finding that two of Hickox's counts are procedurally defaulted—and no exception permits this Court to consider the merits of those claims—

¹ Doc. 1.

² *Id.* at 4-10.

³ Doc. 26.

and that one claim is without merit.⁴ Hickox filed timely objections to the Report and Recommendation.⁵

“If a party objects timely to a magistrate judge’s report and recommendation, the district court must ‘make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.’”⁶ Regardless of whether timely objections are made, district courts may accept, reject, or modify—in whole or in part—the magistrate judge’s findings or recommendations.⁷ Upon de novo review, the Court finds no error in Magistrate Judge Mehalchick’s conclusion that Hickox’s claims are procedurally defaulted or without merit. Consequently, **IT IS HEREBY ORDERED** that:

1. Magistrate Judge Karoline Mehalchick’s Report and Recommendation (Doc. 26) is **ADOPTED**;
2. Hickox’s 28 U.S.C. § 2254 petition (Doc. 1) is **DENIED**;
3. The Court declines to issue a certificate of appealability;⁸ and
4. The Clerk of Court is directed to **CLOSE** this case.

BY THE COURT:

s/ Matthew W. Brann
Matthew W. Brann
United States District Judge

⁴ *Id.*

⁵ Doc. 27.

⁶ *Equal Emp’t Opportunity Comm’n v. City of Long Branch*, 866 F.3d 93, 99 (3d Cir. 2017) (quoting 28 U.S.C. § 636(b)(1)).

⁷ 28 U.S.C. § 636(b)(1); Local Rule 72.31.

⁸ *See Slack v. McDaniel*, 529 U.S. 473, 484 (2000) (setting forth legal standard).